

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18222
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On August 19, 2004, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for refund of individual income tax in the amount of \$969 for the period ending December 31, 2000. The taxpayers filed a timely protest and petition for redetermination of the refund denial. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

On April 26, 2004, the taxpayers submitted a 2000 amended Idaho part-year resident and nonresident income tax return to the Tax Commission for processing. Because the time for claiming the \$969 refund shown in the return had expired, a letter was mailed to the taxpayers advising them the Tax Commission was disallowing the refund. The taxpayers objected, and a Notice of Deficiency Determination was issued wherein the taxpayers were advised the refund was denied and they had a right to appeal the determination.

In their letter of protest, the taxpayers said their tax preparer told them their amended return would not get processed until after April 15, so there was no hurry in filing it. They complained that the H & R Block representative did not bother to tell them there was a time limit for claiming a refund. They said:

H & R Block have been our preparers for a few years because they are suppose [sic] to have the knowledge of the tax laws, that we know nothing about, thats [sic] why we pay them. So we get pentalized [sic] because professionals dont [sic] have the knowledge

they say they do. Had H & R Block known the laws & such we would have been receiving refunds instead of paying.

Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a refund:

**63-3072. Credits and refunds. . . .**

(c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid **shall be made** within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions. (Emphasis added.)

Idaho Code § 63-3024A(g) defines the time allowed to apply for refund:

**63-3024A. Credits and refunds. . . .**

(g) An application for **any** refund which is due and payable under the provisions of this section **must be filed** with the state tax commission within three (3) years of:

- (i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or
- (ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return. (Emphasis added.)

The taxpayers hired their tax preparer as their agent to prepare tax returns on their behalf.

The taxpayers signed each return declaring the return to be “true, correct and complete.” The taxpayers could have a cause of action against the preparer; however, the responsibility for the accuracy of the return is theirs.

The period of limitation with respect to claiming a refund or credit of taxes shown in the taxpayers’ amended Idaho income tax return for 2000 expired on April 15, 2004. The Tax Commission did not receive the taxpayers’ amended return until April 26, 2004.

The Tax Commission finds Idaho Code § 63-3072(c) and § 63-3024A(g), cited above, are controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain timeframe. The refund claim must be denied.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated August 19, 2004, that denies the taxpayers a refund is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2004.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2004, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[REDACTED]  
[REDACTED]

Receipt No.

\_\_\_\_\_